

spirit of humanitarianism, aiming to ensure the best interests for children and the respect for their fundamental rights.

It is strictly forbidden to take advantage of child adoption for the purposes of exploiting their labor, sexually abusing them, trafficking in children or for other self-seeking purposes.

2. The letting of foreigners residing overseas to adopt children bearing the Vietnamese nationality (hereinafter called Vietnamese children) shall be considered and settled if Vietnam and the countries where the child adopters permanently reside have signed agreements or have together acceded to international agreements on child adoption cooperation.

The letting of foreigners residing in countries which have neither signed agreements with Vietnam nor acceded together with Vietnam to international agreements on child adoption cooperation to adopt Vietnamese children shall be considered and settled only if the very children prescribed at Point b, Clause 2, Article 36 of this Decree are asked for adoption.

#### **Article 36.- Vietnamese children to be adopted**

1. Vietnamese children to be adopted must be aged fifteen or younger. Children aged over fifteen can be adopted only if they are disabled or lose their civil act capacity.

Children can only be adopted by one person or two persons being husband and wife. Such husband and wife must be persons of different sexes, bound together in marital relations.

2. Vietnamese children to be adopted shall include:

a) Children who are living in nurturing establishments lawfully set up in Vietnam.

b) Children who are living in families if they are orphans, disabled or relatives of the child adopters.

#### **Article 37.- Requirements on child adopters**

1. Foreigners applying to adopt Vietnamese children must meet all conditions to bring up the adopted children as provided for in Article 69 of the Marriage and Family Law of Vietnam and laws of the countries where such persons permanently reside.

Vietnamese citizens applying to adopt foreign children permanently residing in Vietnam must meet all conditions to bring up the adopted children as

### **Chapter IV**

#### **CHILD ADOPTION**

**Article 35.- Principles for settlement of child adoption**

1. The letting of children to be adopted and the adoption of children can be carried out only in the

provided in Article 69 of the Marriage and Family Law of Vietnam and laws of the countries which such children bear the nationalities of.

2. Where the husband and the wife apply to adopt children, each of them must comply with the provisions in Clause 1 of this Article.

**Article 38.- Establishing the child adoption**

The application for adoption of Vietnamese children by foreigners and the application for adoption of foreign children permanently residing in Vietnam by Vietnamese citizens must be registered by competent State bodies according to the order and procedures prescribed in this Decree.

The unregistered child adoption shall not be recognized.

**Section 1. COMPETENCE, ORDER AND PROCEDURES FOR SETTLING THE CHILD ADOPTION REGISTRATION IN VIETNAM**

**Article 39.- Competence to register child adoption**

1. The provincial-level People's Committees of the localities where exist the children nurturing establishments shall register the foreigners' application for adoption of Vietnamese children living in such nurturing establishments.

2. The provincial-level People's Committees of the localities where the children's natural parents permanently reside shall register the foreigners' application for adoption of Vietnamese children living in their families. If the children's natural parents have different places of permanent residence, the provincial-level People's Committee of the locality where the father or the mother permanently resides and is bringing up the children shall register the child adoption.

Where children are living with their guardians, the provincial-level People's Committees of the localities where the guardians of such children permanently reside shall register the child adoption.

Where the children's parents or guardians do not have or have not yet had the household registration but have registered their definite temporary residence as provided by the law provisions on household registration, the provincial-level People's Committees of the localities where the parents or the guardians who are bringing up the children register their definite

temporary residence shall register the child adoption.

**Article 40.- The time limit for settlement of child adoption application**

1. The time limit for settlement of child adoption application in cases of adoption of children by their names shall be 120 days as from the date the International Child Adoption Agency of Vietnam under the Ministry of Justice (hereinafter called the International Child Adoption Agency) receives complete and valid dossiers of the child adoption applicants. Where the police office's verification is required under the provisions in Clause 2, Article 45 of this Decree, such time limit can be prolonged for 30 days more.

Where the child adoption applicants fail to identify the children by their names and must go through the child recommendation procedures prescribed in Article 51 of this Decree, the above time limit shall be calculated from the date the International Child Adoption Agency receives the written agreement of the child adopters on the recommended children.

2. The time limit prescribed in Clause 1 of this Article shall not cover the time prescribed in Clause 2, Article 47 of this Decree.

**Article 41.- Child adopters' dossiers**

1. The dossiers of foreign applicants for adoption of Vietnamese children shall include the following papers:

a) The application for adoption of Vietnamese children, made according to set form;

b) The copies of their passports or substitute papers;

c) The valid permit issued by the competent body of the country where the child adoption applicant permanently resides, allowing such person to adopt children. In cases where this type of permit is not issued by the country of permanent residence of the child adoption applicant, it shall be substituted for by a written certification of eligibility for child adoption according to the laws of that country;

d) The written certification issued by a competent health organization of the country, where the child adoption applicant permanently resides, within 6 months counting to the date of receipt of the dossiers, stating that such person is in good health and not

infected with mental diseases, contagious diseases;

e) The written certification of the child adoption applicant's income situation, proving that such person can afford the child adoption;

f) The child adoption applicant's judicial record card issued by the competent agency of the country where such person permanently resides, within 6 months counting to the date of receipt of the dossiers.

2. The papers prescribed in Clause 1 of this Article shall be compiled in 2 sets of dossier and submitted to the International Child Adoption Agency.

**Article 42.-** Receiving and processing dossiers of child adoption applicants

1. Within 7 days as from the date of receiving the dossiers of the child adoption applicants, the International Child Adoption Agency shall examine and consider the entire dossiers.

In cases where the dossiers are incomplete or invalid, the International Child Adoption Agency shall notify the child adoption applicants thereof for supplementation and finalization of the dossiers.

2. If deeming that the dossiers are complete and valid and the child adoption applicants fully satisfy the conditions prescribed in Article 37 of this Decree, the International Child Adoption Agency shall have the responsibility:

a) To classify the dossiers and record them into the monitoring books;

b) To send official dispatches to provincial/municipal Justice Services to guide the nurturing establishments or the parents or guardians of the children to compile dossiers for the children, if the child adoption applicants ask for the to be-adopted children by their very names;

c) To send official dispatches, enclosed with copies of the applications of the child adoption applicants, to the provincial/municipal Justice Services, for carrying out the procedures to recommend children as provided for in Article 51 of this Decree, if the child adoption applicants fail to identify the to be-adopted children by their very names.

**Article 43.-** Order of preparing dossiers of children to be adopted by their very names

1. Within 7 days as from the date of receiving the

official dispatches of the International Child Adoption Agency, the provincial/municipal Justice Services shall have to guide the children nurturing establishments (if the children asked for adoption by their very names from the nurturing establishments) or the children's parents or guardians (if the children asked for adoption by their very names from their families) to compile the children's dossiers comprising the papers prescribed in Article 44 of this Decree.

2. Within 30 days as from the date of receiving the official dispatches of the provincial/municipal Justice Services, if agreeing to let the children be adopted, the heads of the nurturing establishments or the parents or guardians of the children shall have to complete 4 sets of the children's dossiers and submit them to the provincial/municipal Justice Services.

**Article 44.-** The dossiers of to be adopted children

1. The dossier of a to be-adopted child shall include the following papers:

a) The copy of the child's birth certificate;

b) The written agreement to let the child be adopted, as prescribed in Clause 3 of this Article;

c) The written certification by the health organization of the district or higher level of the child's health conditions, clearly stating the special conditions, if any;

d) Two color photos of the child, taken at full-length in 10cm x 15cm or 9cm x 12cm size.

2. In addition to the papers prescribed in Clause 1 of this Article, depending on each specific case, the to be-adopted children's dossiers must also include the following corresponding papers:

a) The record certifying of the child abandonment, if such child has been abandoned;

b) The record certifying that the child was left at a medical establishment, if such child was left at a medical establishment;

c) The copies of the death certificates of the child's parents, if the child's natural parents have died or been declared dead;

d) The copy of the court's legally effective judgment or decision declaring that the child's natural parents lose their civil act capacity, if such child's parents have lost their civil act capacity;

e) The child's written agreement on his/her adoption, if the to be- adopted child is full nine years of age or older (this can be inscribed in the paper prescribed in Clause 3 of this Article);

f) The copies of the household registration book(s) or definite temporary residence certificates (for Vietnamese citizens staying in the country); the permanent resident cards (for foreigners permanently residing in Vietnam) of the natural parents or the guardian who is nurturing the child, if the child is living with his/her family and asked for adoption by his/her very name.

3. After being notified and fully aware of the legal consequences of the child adoption involving foreign elements, the following persons can sign the papers agreeing to let children be adopted:

a) The heads of the nurturing establishments may agree to let children who are living in the nurturing establishments be adopted. In cases where the father and/or mother of a child are/is still alive, there must also be the written agreement of the father and/or mother of that child, except where that child has been abandoned or left at a medical establishment, or when such child was sent into the nurturing establishment with his/her parents' written agreement to let their child be adopted or the child's parents have lost their civil act capacity.

b) The parents may agree to let their children living with their families be adopted. If a parent of the child has died or been declared dead or has lost his or her civil act capacity, only the agreement of the living parent is required. Where both parents of the child have died or been declared dead or have lost their civil act capacity, there must be the consent of the guardian of that child.

**Article 45.-** Procedures for verification of children's dossiers in localities

1. Within 30 days as from the date of receiving the children's dossiers, the provincial/municipal Justice Services shall have the responsibility:

a) To check all papers in the children's dossiers; if the dossiers are incomplete or invalid, to request the nurturing establishments or the parents or the guardians of the children to supplement and complete the dossiers;

b) To examine the legality of all the papers in the

children's dossiers;

c) To verify, clarify the children's origins;

d) To send written reports enclosed with a set of the children's dossier to the International Child Adoption Agency.

2. If deeming that the children have no clear origins or the children's dossiers contain matters which need to be verified by the police offices, the provincial/municipal Justice Service shall send official dispatches to the police offices of the same level, clearly stating the matters to be clarified and requesting the verification.

Within 30 days as from the date of receiving the official dispatches from the provincial/municipal Justice Services, the police offices shall have to verify the requested matters and reply the provincial/municipal Justice Service in writing.

**Article 46.-** Procedures for examination of children's dossiers at the International Child Adoption Agency

Within 7 days as from the date of receiving the written reports of the provincial/municipal Justice Services and the children's dossiers, the International Child Adoption Agency shall have the responsibility:

1. To re-examine all the papers and documents in the children's dossiers.

2. To send official dispatch stating its opinions, together with one set of the dossier of the child adoption applicants, to the provincial/municipal Justice Service, if deeming that the children's dossiers have been complete and valid under the provisions of this Decree and the international agreements which Vietnam has signed or acceded to.

3. If deeming that the children's dossiers are incomplete and/or invalid, to notify such to the provincial/municipal Justice Service in order to request the nurturing establishments or the parents or the guardians of the children to supplement and complete the children's dossiers.

**Article 47.-** Completion of child adoption application procedures

1. Within 7 days as from the date of receiving the written reply of the International Child Adoption Agency, enclosed with the dossiers of the child



adoption applicant, the provincial/municipal Justice Services shall notify the child adoption applicants to come to Vietnam to complete the procedures for child adoption application.

2. Within 30 days as from the date of receiving the notification of the provincial/municipal Justice Service, the child adoption applicants must be present in Vietnam to complete the procedures for child adoption application. If for objective reasons they cannot be present during that time, they must send written requests to the provincial/municipal Justice Service for the extension thereof, the extension duration shall not exceed 60 days.

The child adoption applicants must pay fees and make written commitments (made according to set form) to notify once every six months the provincial-level People's Committee and the International Child Adoption Agency of the situation on the development of the adopted children in the first three years, then notify such once a year in the subsequent years till the children reach full 18 years of age.

3. Within 7 days as from the date the child adoption applicants pay fees and sign the written commitments to notify the situation on development of the adopted children, the provincial/municipal Justice Service shall report on the verification results and propose ideas on settlement of foreigners' application for adoption of Vietnamese children, and submit them together with one set of the children's dossier and one set of the child adoption applicants' dossier to the provincial-level People's Committee for decision.

**Article 48.- Deciding on adoption of children**

1. The decision to let Vietnamese children be adopted shall be made only after the procedures for child adoption application are completed under the provisions in Article 47 of this Decree and the child adoption applicants are present in Vietnam to directly receive the adopted children.

2. Within 7 days as from the date of receiving the written reports of the provincial/municipal Justice Service and the enclosed dossiers, if deeming that the application for adoption of Vietnamese children by foreigners does not fall into the cases of registration refusal as provided for in Article 50 of this Decree and is a measure to ensure the interests of such children, the provincial-level People's Committee

president shall sign the decision on adoption of Vietnamese children and return the dossier to the provincial/municipal Justice Service for the latter to organize the hand-over and reception of the adopted children, to record the child adoption into the registers and archive the dossiers according to law provisions.

In case of refusing the child adoption, the provincial-level People's Committee shall send written notifications to the child adoption applicants and the International Child Adoption Agency, clearly stating the reasons for the refusal.

**Article 49.- Hand-over and reception of adopted children**

1. The provincial/municipal Justice Service shall carry out the hand-over and reception of adopted children within 7 days as from the date the provincial-level People's Committee president signed decision permitting the adoption of Vietnamese children, except for cases where the child adoption applicants, for plausible reasons, request another time.

2. The hand-over and reception of adopted children shall be organized at the office of the provincial/municipal Justice Service in the presence of the representatives of the provincial/municipal Justice Service, the to be-adopted children; the recipients being the adoptive fathers and/or mothers; the handlers being representatives of the nurturing establishments, if the children are adopted from the nurturing establishments, or the fathers, mothers or the guardians of the children, if the children are adopted from the families.

The hand-over and reception of adopted children must be fully recorded in the reports on hand-over and reception of adopted children, made according to set form, with signatures of the recipients, the handlers and the representatives of the provincial/municipal Justice Service.

3. The representative of the provincial/municipal Justice Service shall make entries into the child adoption registers and hand the decisions to the involved parties.

A decision on adoption of Vietnamese children and the report on hand-over of adopted children shall be made in 4 original copies: 1 copy shall be handed to the recipient, 1 to the handler, 1 archived at the provincial/municipal Justice Service and 1 to the

International Child Adoption Agency.

4. Decisions on adoption of Vietnamese children shall come into force as from the date the hand-over of adopted children is organized and recorded in the child adoption registers. The granting of copies of decisions from the original books shall be effected by the provincial/municipal Justice Service at the requests of the involved parties.

5. The provincial/municipal Justice Service shall hand to the adoptive fathers and/or mothers one set of dossier of the adopted children.

6. Within 7 days as from the date of handing over and receiving the adopted children, the provincial/municipal Justice Service shall have to send to the International Child Adoption Agency the following papers for general monitoring:

a) An original of the decision on adoption of Vietnamese children;

b) An original of the record on hand-over and reception of adopted children;

c) An original of the written commitment to notify on the situation of the development of the adopted children;

d) Other relevant papers, if any, except for papers already included in the dossiers of the children and the child adoption applicants.

**Article 50.-** Refusal of child adoption application registration

The application for adoption of Vietnamese children shall be refused in the following cases:

1. The child adoption applicants fail to satisfy all conditions on child adoption as prescribed in Article 37 of this Decree.

2. The to be-adopted children fail to fully satisfy the conditions as provided for in Article 36 of this Decree.

3. There are grounds to confirm that the child adoption aims to traffic in children, exploit their labor, sexually abuse them or for other self-seeking purposes.

**Article 51.-** The order of recommending and letting children to be adopted in cases of application for adoption not by the children's names

1. In cases where the child adoption applicants fail to identify the to be-adopted children by their names, the International Child Adoption Agency shall send official dispatches together with the photocopies of the applications of the child adopters to the provincial/municipal Justice Services aspired by the child adoption applicants for consideration and recommendation of children.

2. Within 15 days as from the date of receiving the official dispatches of the International Child Adoption Agency, the provincial/municipal Justice Services shall send written requests to the nurturing establishments for determination of children who are fully qualified and suitable to the aspirations of the child adoption applicants in order to recommend them for adoption and reply the International Child Adoption Agency in writing.

Within 7 days as from the date of receiving the written requests of the provincial/municipal Justice Services, the nurturing establishments shall have to determine the children for recommending them for adoption and reply the provincial/municipal Justice Services on the results thereof.

3. Within 7 days as from the date of receiving the written reply from the provincial/municipal Justice Services, the International Child Adoption Agency shall have to notify the child adoption applicants of the results of the recommendation of children for adoption.

4. Within 30 days as from the date of receiving the notification of the International Child Adoption Agency, the child adoption applicants must reply the International Child Adoption Agency in writing on their agreement or disagreement to adopt the recommended children. If they agree, the International Child Adoption Agency shall send official dispatches, requesting the provincial/municipal Justice Services to guide the nurturing establishments in compiling the children's dossiers.

In cases where the child adoption applicants refuse to adopt the recommended children, the International Child Adoption Agency shall notify such in writing to the provincial/municipal Justice Services for the latter to notify the nurturing establishments thereof.

5. The order of preparing dossiers of children, papers in the dossiers; the procedures for examination

of children's dossiers in localities and at the International Child Adoption Agency and the completion of procedures to apply for adoption of children, the decision permitting the child adoption and the hand-over and reception of adopted children shall comply with the provisions in Articles 43 thru 50 of this Decree.

**Section 2. COMPETENCE, ORDER AND PROCEDURES FOR SETTLEMENT OF CHILD ADOPTION AT VIETNAMESE DIPLOMATIC OR CONSULAR OFFICES**

**Article 52.-** Competence to register child adoptions

The Vietnamese diplomatic and consular offices shall only settle the applications of foreigners permanently residing in the host countries for the adoption of Vietnamese children permanently residing in those countries according to the order and procedures prescribed in this Section, if such children currently do not have permanent residence registration at home. In cases where the to be-adopted Vietnamese children currently have their permanent residence registration at home, the competence, order and procedures for settling the child adoption registration shall comply with the provisions in Section 1 of this Chapter.

**Article 53.-** The time-limit for settlement of child adoption application

The time limit for settlement of child adoption application at Vietnamese diplomatic or consular offices shall be 120 days as from the date such offices receive complete and valid dossiers. In cases where the concerned agencies in the country are requested to make verifications as provided for in Clause 2, Article 55 of this Decree, such time limit may be prolonged for 45 days more.

**Article 54.-** Dossiers of application for child adoption

1. The dossiers of application for adoption of Vietnamese children residing overseas shall include the following papers:

a) The papers prescribed in Clause 1, Article 41; Points a and d, Clause 1 of Article 44 of this Decree;

b) The parents' written agreement to let their children be adopted. In cases where one parent of the child has died or been declared dead or has lost his or her civil act capacity, only the written agreement of the other parent is required. In cases where both parents have died or been declared dead or have lost their civil act capacity, there must be the written agreement of the guardian of such child;

c) The written certifications by the competent health bodies of the countries where the to be-adopted children reside of the children's health conditions, clearly stating the special conditions, if any;

d) The child adoption applicant's written commitment to notify once every six months (made according to set form) to the Vietnamese diplomatic or consular offices and the International Child Adoption Agency of the state of development of the adopted children for the first three years, then once a year for the subsequent years till the children reach full 18 years of age;

e) The papers proving the overseas residence of Vietnamese children.

2. In addition to the papers prescribed in Clause 1 of this Article, depending on each specific case, the dossiers of application for adoption of Vietnamese children residing overseas must also include the corresponding papers prescribed at Points a, b, c, d and e, Clause 2, Article 44 of this Decree.

3. The papers prescribed in Clauses 1 and 2 of this Article shall be compiled in 2 sets of dossier for submission to the Vietnamese diplomatic or consular offices.

**Article 55.-** Procedures for examination of dossiers of application for child adoption

1. After receiving the complete and valid dossiers as well as fees, the Vietnamese diplomatic and consular offices shall have the responsibility:

a) To examine and be accountable for the legality of all the papers in the dossiers;

b) To verify and clarify the children's origins;

2. In cases where children are deemed having unclear origins or where other matters in the dossiers need to be verified by the police offices or other concerned agencies in the country according to their functions, the Vietnamese diplomatic or consular offices shall send official dispatches to the concerned



agencies at home, clearly stating the matters to be verified and requesting their verification according to specialized functions.

Within 30 days as from the date of receiving the official dispatches of the Vietnamese diplomatic or consular offices, the police offices or other concerned agencies in the country shall have to verify the requested matters and reply the Vietnamese diplomatic or consular offices in writing.

**Article 56.-** Deciding on adoption of children and hand-over and reception of adopted children

1. If deeming that the adoption of Vietnamese children residing overseas does not fall into the cases of registration refusal as provided for in Article 50 of this Decree and is a measure to ensure the interests of such children, the heads of the Vietnamese diplomatic or consular offices shall sign decisions permitting the adoption of Vietnamese children. In cases of refusing the child adoption, the Vietnamese diplomatic or consular offices shall notify such in writing to the child adoption applicants, clearly stating the reasons therefor.

2. The hand-over and reception of adopted children shall be carried out within 15 days as from the date the heads of the Vietnamese diplomatic or consular offices sign the decisions permitting the adoption of Vietnamese children, except where the child adoption applicants, for plausible reasons, request another time.

3. The hand-over and reception of adopted children shall be organized at the headquarters of the Vietnamese diplomatic or consular offices in the presence of the representatives of the Vietnamese diplomatic or consular offices; the to-be-adopted children; the recipients being adoptive fathers, mothers; the handers being natural fathers, mothers or guardians of those children.

The hand-over and reception of adopted children must be fully inscribed in the records, made according to set form, on hand-over and reception of adopted children, with the signatures of the recipients, the handers and the representatives of the Vietnamese diplomatic or consular offices.

4. The representatives of the Vietnamese diplomatic or consular officers make entries into the child adoption registers and hand over the decisions

to the involved parties.

A decision on adoption of a Vietnamese child and the record on hand-over and reception of the adopted child shall be made in 4 originals: 1 shall be handed to the recipient, 1 to the hander, 1 kept at the concerned Vietnamese diplomatic or consular office and 1 shall be addressed to the International Child Adoption Agency.

5. The decisions permitting the adoption of Vietnamese children shall take effect as from the date of organizing the hand-over and reception of the adopted children and recording the child adoption into the registers. The issuance of copies of decisions from the original books shall be effected by the Vietnamese diplomatic or consular offices or Foreign Ministry at the requests of the involved parties.

6. After completing the hand-over and reception of adopted children, the Vietnamese diplomatic or consular offices shall have to send to the International Child Adoption Agency through the Foreign Ministry the following papers for general monitoring:

- a) An original of the decision permitting the adoption of Vietnamese children;
- b) An original of the record on hand-over and reception of adopted children;
- c) A set of dossier of application for child adoption;
- d) Other relevant papers, if any.

### **Section 3. RECOGNITION OF CHILD ADOPTION CARRIED OUT OVERSEAS**

**Article 57.-** Recognition of child adoption carried out overseas

The adoption of Vietnamese children or foreign children, which has been registered at the competent agencies of foreign countries, shall be recognized in Vietnam, except for cases prescribed in Article 50 of this Decree. The recognition shall be annotated into the registers according to the law provisions on civil status registration.

### **Section 4. OPERATIONS OF FOREIGN CHILD ADOPTION ORGANIZATIONS IN VIETNAM**

**Article 58.-** Principles and conditions for as well as forms of operation of foreign child adoption



organizations in Vietnam

1. Foreign organizations' operations in the field of child adoption in Vietnam under the provisions of this Decree must comply with the humanitarian and non-profit principles. It is strictly prohibited to conduct service business activities of child adoption brokerage or to take advantage of the support for child adoption application to traffic in children, exploit their labor, sexually abuse children or for other self-seeking purposes.

2. Foreign organizations operating in the field of child adoption (hereinafter called the foreign child adoption organizations), having been lawfully set up in countries which have signed agreements with Vietnam or have, together with Vietnam, acceded to international agreements on child adoption cooperation and if satisfying all the conditions prescribed in Clause 3 of this Article, shall be permitted to operate in Vietnam in the form of offices of foreign child adoption organizations (hereinafter called the foreign child adoption offices in order to support and assist the adoption of Vietnamese children.

3. The foreign child adoption organizations may set up foreign child adoption offices in Vietnam, if fully meeting the following conditions:

a) Being permitted by the competent agencies of the countries where the organizations have been set up to operate in the field of child adoption in Vietnam;

b) Having programs, plans or projects on humanitarian or charity activities to support the adoption of Vietnamese children;

c) Having places to locate their offices in Vietnam to ensure their activities;

d) Persons expected to be the heads of the foreign child adoption offices in Vietnam must be those having good virtues as well as heart and mind for humanitarian or charity activities, having no criminal records.

4. The foreign child adoption organizations shall take responsibility before Vietnamese laws for all activities of their foreign child adoption offices in Vietnam.

**Article 59.** - Dossiers of application for permission to set up foreign child adoption offices in Vietnam

1. The dossiers of application for setting up of a

Vietnam-based foreign child adoption office of a foreign child adoption organization shall include the following papers:

a) The application for setting up foreign child adoption office in Vietnam, made according to set form;

b) The copy of the Charter or the document on founding the foreign child adoption organization;

c) The copy of the permit for operation in Vietnam, issued by the competent agency of the country where the foreign child adoption organization has been established;

d) The anticipated program, plan or project for humanitarian and charity activities to support the application for adoption of Vietnamese children;

e) The report on the situation of child adoption activities of the foreign child adoption organization in the two latest years, with certification by the competent agency of the country where that organization has been set up, clearly stating the situation of financial revenues and expenditures related to activities in the field of child adoption. If that organization has implemented projects or carried out activities in support of and assistance to Vietnamese children, there must also be the report on the already conducted activities, with certification by Vietnamese agencies and/or organizations which have received such support or assisting projects or activities;

f) The papers proving the office location;

g) The curriculum vitae and judicial record card of the expected head of the office.

2. The papers prescribed in Clause 1 of this Article shall be compiled in two sets of dossier and submitted to the Ministry of Justice.

**Article 60.** - Procedures for granting permits to set up foreign child adoption offices in Vietnam

1. Within 30 days as from the date of receiving complete and valid dossiers, the Ministry of Justice shall examine the dossiers and ask, in its official dispatches, for the opinions of the Ministry of Public Security and the provincial-level People's Committees of the localities where the foreign child adoption offices in Vietnam are expected to be located and to conduct their activities.

2. Within 30 days as from the date of receiving the

official dispatches of the Ministry of Justice, the Ministry of Public Security and the provincial-level People's Committees shall reply the former in writing.

3. Within 15 days as from the date of receiving the written replies of the Ministry of Public Security and the provincial-level People's Committees, the Ministry of Justice shall consider and grant permits for setting up the foreign child adoption offices in Vietnam to the foreign child adoption organizations, and at the same time send written notifications enclosed with the copies of the operation permits to the provincial/municipal Justice Services of the localities where the foreign child adoption offices in Vietnam are headquartered and where they are allowed to operate, for coordinated management. In case of refusing to grant permits, the Ministry of Justice shall notify such in writing to the applying foreign child adoption organizations.

4. The permits for setting up foreign child adoption offices in Vietnam shall be valid for 5 years counting from the date of issuance, and can be extended; the duration of each extension shall not exceed 5 years. The permits for setting up foreign child adoption offices shall include the following principal details:

- a) The appellations and addresses of the headquarters of the foreign child adoption organization and its office in Vietnam;
- b) The full name of the head of the office;
- c) The operating areas of the office;
- d) The contents of activities which the office is allowed to carry out in order to support the child adoption application;
- e) The operation duration of the office;
- f) The extension, change in the contents of the permit.

**Article 61.-** Rights and obligations of foreign child adoption offices

1. The foreign child adoption offices shall have the rights:

- a) To conduct activities in support of child adoption;
- b) To rent working offices, recruit Vietnamese employees to work for the offices as provided for by law;
- c) To conduct activities of technical assistance,

humanitarian assistance for children nurturing establishments as provided for by law;

- d) Other rights prescribed by law.

2. The foreign child adoption offices shall have the obligations:

a) Only to conduct activities strictly within the scope of contents and operating areas prescribed in the permits;

b) To strictly abide by laws, respect customs and practices of Vietnam;

c) To take responsibility for the fulfillment of the commitment to notify the situation of development of the adopted children according to the provisions of this Decree by the child adopters whom the offices have rendered support in the child adoption application;

d) To report biannually and annually to the Ministry of Justice, the provincial/municipal Justice Services of the localities where the offices are headquartered and where the offices are permitted to operate on the organization, personnel and activities of the offices; to report, supply documents or explanations on matters related to the operations of the offices, when so requested;

e) To abide by the provisions of Vietnamese legislation on labor, tax, accounting and statistics;

f) To send reports on final settlement of financial revenues and expenditures related to child adoption activities in Vietnam to the Ministry of Justice, the provincial/municipal Justice Services of the localities where the offices are headquartered and where the offices are permitted to operate;

g) To submit to the inspection and examination by the Ministry of Justice, the provincial/municipal Justice Services of the localities where the offices are headquartered and where the offices are permitted to operate and to other competent agencies of Vietnam on the offices' activities;

- h) Other obligations as prescribed by law.

**Article 62.-** Extension of operation of foreign child adoption offices

1. Foreign child adoption offices which strictly abide by the provisions of this Decree shall be entitled to extend their operation. At least 3 months before the expiry of their establishment permits, the foreign child

adoption offices, if wishing to extend their operation, shall have to file their application for extension to the Ministry of Justice, enclosed with the reports on the situation of their activities in Vietnam during the time they are licensed, with opinions of the provincial/municipal Justice Services of the localities where the offices are headquartered and where the foreign child adoption offices are permitted to operate.

2. Within 30 days as from the date of receiving complete and valid dossiers, the Ministry of Justice shall consider, consult the concerned agencies and decide to permit or refuse the extension.

In case of permitting the extension, the Ministry of Justice shall directly inscribe the extension in the permits and affix stamps for certification, and at the same time send written notifications together with the copies of the extended permits to the provincial/municipal Justice Services of the localities where the offices are headquartered and where the offices are permitted to operate for coordinated management.

In case of refusing the extension, the Ministry of Justice shall notify such in writing to the applying foreign child adoption offices.

**Article 63.-** Changes in the contents of permits for setting up foreign child adoption offices

1. In cases where foreign child adoption organizations make changes in their appellations, in their headquarters in the countries where they have been set up, changes in the locations of their foreign child adoption offices in Vietnam, but within a province or a centrally-run city, the foreign child adoption offices shall have to file their written requests for annotation on the changes, together with the permits, to the Ministry of Justice.

Within 7 days as from the date of receiving the written requests for annotation on the changes, the Ministry of Justice shall directly inscribe the changed contents in the permits for setting up the foreign child adoption offices and affix stamps for certification, and at the same time send written notifications, together with the copies of the permits already annotated with the changes, to the provincial/municipal Justice Services of the localities where the offices are headquartered and where the foreign child adoption offices are permitted to operate for coordinated management.

2. In case of request for the replacement of the

heads of the foreign child adoption offices in Vietnam, changes in the operating contents, operating areas, headquarters of the foreign child adoption offices in other provinces or centrally-run cities in Vietnam, the foreign child adoption organizations shall have to file their applications for such changes, clearly stating the change purposes, contents and reasons, enclosed with the permits, to the Ministry of Justice. In case of replacing the office heads, the application for replacement must be enclosed with the curriculum vitae, made according to set form and the judicial record card of the persons expected to replace the office heads.

Within 30 days as from the date of receiving complete and valid dossiers of application for changes in the permit contents, the Ministry of Justice shall consider and decide to permit or refuse the changes in the permit contents.

In case of permitting the changes, the Ministry of Justice shall directly inscribe the contents of the changes in the permits and affix stamps for certification, and at the same time send written notifications, together with the copies of the permits with changed contents, to the provincial/municipal Justice Services of the localities where the foreign child adoption offices are headquartered and where they are permitted to operate for coordinated management.

In case of refusing the changes, the Ministry of Justice shall notify such in writing to the applying foreign child adoption offices.

**Article 64.-** Termination of operation of foreign child adoption offices

1. The foreign child adoption offices shall terminate their operation in Vietnam in the following cases:

a) The foreign child adoption organizations apply for termination of operation in Vietnam ahead of time or upon the expiry of the permits for setting up the foreign child adoption offices they do not request the extension;

b) The foreign child adoption organizations terminate operation in the countries where such organizations have been set up;

c) Upon the expiry of their operations in Vietnam according to the permits granted by the competent agencies of the countries where the child adoption organizations have been established, they are not permitted to extend operation;

d) Upon the expiry of their operation in Vietnam according to the permits granted by the Ministry of Justice, they are not allowed to extend their operation;

e) They are indefinitely deprived of the right to use the permits under the decisions of the competent State bodies.

2. In case of termination of operation under the provisions at Points a, b and c, Clause 1 of this Article, the foreign child adoption organizations must send written notifications on operation termination to the Ministry of Justice within 30 days before the date of termination of operation of the foreign child adoption offices and must return the permits for setting up the foreign child adoption offices to the Ministry of Justice.

3. In case of operation termination as provided for at Points d and e, Clause 1 of this Article, the Ministry of Justice or other competent bodies shall have to send to the foreign child adoption organizations the written refusal of extension or the decision on deprivation of the right to use the permits, within 30 days before the foreign child adoption offices are compelled to terminate their operations.

4. Before terminating their operations, the foreign child adoption organizations and the foreign child adoption offices shall have to repay all their debts (if any) to relevant organizations and/or individuals in Vietnam and settle matters related to the operation termination and report thereon in writing to the Ministry of Justice and the provincial/municipal Justice Services of the localities where the foreign child adoption offices are headquartered and where they are permitted to operate.

5. The Ministry of Justice shall send written notifications on termination of operation of foreign child adoption offices to the provincial/municipal Justice Services of the localities where the offices were previously headquartered and where they were permitted to operate.